App. F. IX-4

Previous References 192 ( ) **File No.**

Serial Nos. 1912

Later References

R (10)

General and Revenue Secretariat.

Serial Nos.

Part B for [illegible]

SUBJECT

[illegible]

GENERAL AND REVENUE SECRETARIAT.

( )

NOTES.

File No. 96

FILE HEADING.

Advisability of taking action against the Printer and Editor of the Vokkaligara Patrike under Act XXV of 1867

FROM

The Registrar of Newspapers Publications

No. 18 Dated 20.11.28 Received 21.11.

Diary No. 2164.	Enclos. 1 file Spare copies	Serial No.

BRIEF ABSTRACT OF LETTER.

Forwards the request the order of the city magistrate on the complaint filed by Mr. R. Gopalaswamy Iyer in C.C. 728 of 27.28.

NOTES AND ORDERS.

Mr. R. Gopal ... who have filed a petition before the Dist: Mag: Bangalore (Mag W), bringing to his notice (1) that Mr. H. K. Veeranna Gowda, though he was working as a editor of the Vokkaligara Patrike from 1.1.27, declared himself to be such before a magistrate only on the 28th Feb 28

General and Revenue Secretariat | File No | of 192

Serial No.

thus ~~Contravening the provisions~~ Contravening the provisions of Reg III of 1908.
(2) that Mr. Kammanteforoda was printing & editing the paper from Febr 1923 to Jan 27 without making a declaration and (3) that after the Sangha was removed to a new building in May 1 neither Mr. Vajapha who was then President nor Mr. Kampanna who has been President from 1-9-26, have declared as required by Sec 4 of Act XXV of 1867.

The Dist: magistrate issued notices & after hearing Counsels passed order on 2-5-(May V), holding that if Mr. Popalaswamy Iyer's allegations are proved, the opponents to be liable under section 15 of Act XXV of 1867 but that as the acts Complained are Cognisable by the City Magistrate, he transfered the cases to him for disposal. As regards Reg III of 1908 he held that in case the opponents were Convicted under Act XXV of 1867, the matter may be reported to Govt for such action they Consider necessary.

The City Magistrate examined ~~not for~~ the Complainant & passed orders on 1-11-1928 to the effect that under Rule 6 of the Rules framed under Sec 20 of Act XX V of 18 prosecutions could be instituted only by the Registrar upon information obtained by D or other reliable source. The magistrate however did not dismiss the Complaint but forwarded it to the Registrar of

NOTE.—Contn. sheet

Serial No.

authorised publications for taking such action as he deems fit.

The Registrar has now referred the matter to L.R. for opinion as to whether any successful action can lie in the matter.

Section 4 of Act XXV of 1867 requires the Keeper of the Press to make a declaration Here the Keeper of the Press is the Vokkaligara Sangha, a corporate body. It is doubtful if it is necessary for each President in succession to make this declaration. It seems to be sufficient if the President at the time the Press came to the possn of the Sangha, made the declaration & such a one was made by Mr. T. Byanna.

Sec 5 requires a declaration from the Printer & Publisher & clause 2 says that as often as the place of Printing is changed a new declⁿ is necessary. Such a declⁿ has been made on 16.2.28 though the Press was shifted to Visveswarapuram in May 1926. It may not therefore be necessary or advisable to take any action now, since the mistake has been rectified as soon as it was discovered.

Draft put up

L.R.)

Law 30/11

23/11/28

1/12/28

1/12

WD 021—GPB—30,000—21-8-28

2164/28

App. F. III—2]

General and Revenue Secretariat. | File No. of 192 .

Serial No.

As my name is mentioned in the proceedings I refrain from dealing with the question

Please place it before Secretary

29/12

Law 29/12.

Submitted for orders.

Dorp 2.1.29 AHL 2/1

Of the four charges mentioned in para 1 of the City Magistrate's order of 1.11.28, that of printing & publishing is unsustainable under Act XXV of 1867, as that Act requires no declaration by the editor of a newspaper. The infringement of the provisions of ss. 4 & 5 of the Act by the other three gentlemen consisted only in the omission to make a fresh declaration when the press was shifted from Cotton St to the Sangha buildings and the printing & publication of the paper changed hands. As no such declarations have ever been made in the matter may perhaps be brought to the Registrar of Indian and Foreign Publications informed accordingly

Secy

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-29

Serial No.

The City Magte has adopted a novel procedure (vide paras 5 & 6 of the memo). When a complaint is filed before him & when he is satisfied that the complainant is not the proper person to file it, he ought to have dismissed the complaint under the provisions of the Cr. P.C. The Code does not provide for sending the records to the Regr of authorized publications for taking "such action as he deems fit". This is not a procedure known & the Magte has no power to take it. If he had sent a copy of his memo to the Sessions Judge, as he is bound to do under the rules, the latter Officer ought to have pointed out the Magte's mistake.

The Regr of authd publications may be instructed to return the records to the City Magte for disposal according to law as the Magte's assumption is illegal & unauthorized.

P.M. 25.1.

This Magte's order also seems to be irregular.

The proceedings show that the accused had also appeared before Court as he had been issued by them

P.M.

Draft reply to the Registrar of Auth. Pubs put up for approval

Sd/- P.M. 25.1.29

To, Registrar of A. Pubs

P 3966/62 Law-28-2 dated 29.1.29

returning the records with the opinion

NOTE—Contn. sheet

B.M. 29.1.29

2164
p824

OFFICE OF THE SUPERINTENDENT,
GOVERNMENT PRINTING, &
Registrar, Authorised Publications

No. 18
one file

Bangalore, dated 20th Novr. *192* 8.

Law 62-28-1

FROM

B. PUTTAIYA, ESQ., B.A.,
Superintendent, Government Printing, &
Registrar, Authorised Publications, *Bangalore.*

To

B. Nagappa, Esq., Bar-at-law,
Legal Remembrancer & Secretary to Government,
Law Department, Bangalore.

24/11

SIR,

I have the honour to submit herewith the file of records in Criminal Case No: 728 of 1927-28 on the file of the City Magistrate, Bangalore, received from the District Magistrate, Bangalore, with his Memo No: J.N.Dis. 2201/28-29, dated 14th instant, and to request to be kindly favoured with your opinion as to whether any successful action can lie in the matter if a complaint is laid before the Magistrate.

I have the honour to be,

Sir,

Your most obedient servant,

B. Puttaiya

Superintendent, &
Registrar, Authorised Publications

D.v.s.

48

In the Court of the City Magistrate, Bangalore

Dated the 1st day of November 1928.

Present :- C. Narayanaswamy Naidu, Esq., B.[redacted] L.

City Magistrate, Bangalore.

Criminal Case No. :- 728 of 1927-28.

Petitioner. Opponents.

Mr. R. Gopalaswamy Iyer. VS 1. Mr. H. K. Veeranna Gowda.

2. Mr. Hanumantha Gowda.

3. Mr. B. Kempa

Offence under Act. XXV of 1867.

O R D E R.

Mr. Gopalaswamy Iyer alleges in his statement [redacted] before me, that (1) the Vokkaligar Sangha Press was removed to the New Building in May 1926, that Mr. B. [redacted] who was the President of the Sangha at the time did not [redacted] declaration as required by section 4 of Act. XXV of 1867, (2) Mr. B. Kempanna who has [redacted] been the President of Sangha From 1-9-26 has not given a declaration as Propr the Press and Publisher of the paper Vokkaligar Patr (3) Mr. Veeranna Gowda who was the Editor of Patrike From January 1927 to 1-9-28 did not give a d till about Febraury 1928 and (4) that Mr. Gowda was printing and editing the paper [redacted] thout sig declaration From Febraury 1923 to January 1927.

If these allegations are [redacted] ections 13 and 14 of Act. XXV of 1867 must be en committed.

Now [redacted] prescribed under provi

P.W.8 Mr. K.T.Gundappa Rao, Accountant in-charge of sandal oil accounts all along and accountant of the Essenflour Products Co., till the end of June 1936.	the system of accounting, steps taken by Directors in respect of the agency, the accounts and correspondence relating to the several withdrawals and the calculation of the figures of misappropriation as shown by the Essenflour account-books.
P.W.3- Mr.S.Somasekara Pandit, accountant of the Essenflour Products Co.	the entries in account-books.
P.W.4- Mr.K.R.Krishnaswami Iyengar,Deputy Comptroller.	his audit of the Essenflour accou and his calculations of the amounts misappropriated from sand oil moneys.
P.W.5- K. Raghavendra Rao, Cashier to the Essenflour Products Co., and the Mysore Development Syndicate.	accounts.
P.W.6- C. Narayana Rao,Clerk, Essenflour Products Co.	correspondence between Essenflour office and Director.
P.W.7- Mr. H.C.Lakshmipathiah, General Office Assistant in the offices of these companies.	Correspondence and telegrams.
P.W.8- N. Raja Rao,Typist of the accused.	Correspondence.
P.W.9- B.N.Subba Rao,Personal Clerk of the accused.	telegraphic remittance to Hoviankar.
P.W.10- Mr. B.K.Garudachar, Director of all these companies.	the constitution, managements and working of these companies and their financial arrangements.
P.W.11- Mr.M.Hariyanna.	-do-
P.W.12- Mr.J.Sa[illegible]anna Rao.	The financial arrangements to accomodate the Essenflour Products Co.
P.W.13. G.N.Narasimhamoorthi,	

...ting cashier of M.P. ...rchants Co., for a short ...eriod.	accounts.
...W.14. Mr. K.Bhavanishankar ...ao, Head accountant, Sandal ...il Factories.	the system of accounts in the Director's office and the return received from the agents.
...W.15. Mr. K.Parthasarathi, ...sistant Director, Sandal oil ...ctories.	his audit of Mr.Movlankar's accounts in London and the discovery of the fraud as set forth in his audit report.
...W.16-Mr.C.S.Narayanaswami, ...lerk, Mysore Bank.	the dealings between the companies and the Mysore Bank.
...W.17. Mr. N. Rama Rao, ...velopment Secretary to Govt.	The receipt of confidential letters of the accused from London according to the accused's wire, the receipt of Movlankar's account books and their delivery to the officers concerned.
W.18- Mr. Srinivasa Raghavan, ...perintendent, Loan Section, ...sore Bank, Bangalore.	the dealings between these companies and the Mysore Bank.
...[illegible] ...reign correspondent to the ...senflour Products Co., in ...ndon.	the withdrawals by him of sandal oil moneys and their remittance to Mysore also his own frauds, and the identification of confidential letters between him and the accused.
W.20- Mr. K.T.Sundararaja Iyengar, ...erk, Imperial Bank, Bangalore.	Mr. Vardhamaniah's account with the Imperial Bank of India.
W.21- Mr. Mallikarjuniah, ...perintendent, Mysore Jail.	the receipt and delivery of

Mr. Cox's services to the accused in Jail.

P.W.22. Mr. B.Siddaraj Urs,
Assistant Superintendent
Police,Mysore City. the seizure of the above.

P.W.23. Mr.C.M.K.Manjeshwaraiengh
D.S.P., Mysore District. the investigation of the case.

I shall next proceed to discuss the evidence relating to the similar transaction and the transactions included in the charge but before doing so shall make a brief reference to the contention of the defence that the evidence of similar transactions tend to prejudice the Court and should not have been admitted in evidence. If there were only one or two stray instances of overdraft on scandal oil moneys then it would be very difficult to impute dishonesty to the accused without collateral evidence as the overdraft might be explainable as due to mistake or accident. The circumstances of the case therefore cast a responsibility on the prosecution to adduce collateral evidence of dishonesty and rebut the probability of innocence. Section 15 of the Evidence Act is intended to apply to such cases as decided in a long array of reported cases English and Indian. For brevity they will only be cited here. Vide Reg. VS. Stephens 16 Cox. C.C.387, Makin VS. Attorney. General for New Soth Wales. 17 Cox. C.C.704, Reg.VS.Ollis 19 Cox.C.C.554. Queen VS Francis L.R.2 C.C.R.128. Rex VS.Wyatt 20 Cox.C.C.468. Rex VS.Bond 21. Cox.C.C.252. Reg.VS.Richardson 8. F & F.343 and the following ------- Cases- Girdhari Lal VS. Emperor. 11 Cr.L.J.428 Pritchard VS Emperor. 30 Cr.L.J.13. Emperor VS. Stewart 27 Cr.L.J.1225. Emperor VS.Harjivanji Valji 27.Cr.L.J.1339. Amritlal Hazra VS Emperor 42. Calcutta 997. Emperor VS.Panchu Das.47.Cal.695. Emperor VS. Emperor 24. Cr.L.J.187, Queen Empress VS.Vajiram 16. Bombay 415. Emperor Vs.Yakubali 39, Allahabad 273.

The decisions to the contrary namely Emperor Vs.Abdul Wahid Alikhan 34. Allahabad 93, Emperor VS. Vyapuri Mudaliar 6 Cal.655 and Krishna Govind Pal Vs.Emperor 43,Cal.783 refer to cases where intention is inherent in the act and the question of collateral evidence of dishonesty does not arise in such cases. There are three cases are

Section 30 of the said Act lays down as follows :-

" Prosecutions for infringement of the provisions of Act XXV of 1867 as amended by Regulation I of 1894, shall be instituted by the Registrar aforementioned upon information received from the Deputy Commissioners of Districts or other reliable source ".

The use of the word " shall " seems to indicate that prosecutions must be instituted only by the Reg and not by a private person. Mr. Gopalaswamy Iyer and his cou Mr. Venkatapathayya conceded this point and request me to make reference to the Registrar.

5. As the case has been referred to me for disp by the Learned District Magistrate, I do not want to dismiss the complaint on the ground that Mr. Gopalaswamy Iyer is not the proper person to file it. Further, the Registrar has to consider the advisability of launching the prosecution and for this purpose the matter must be brought to his knowledge.

6. I, therefore, send the records to the Registrar of authorised publications through the Deputy Commissioner - District Magistrate for taking such action as he deems fit.

In open Court.

Sd/-. C. Narayanaswamy Naidu,
City Magistrate,
Bangalore.
1- 11- 1938.

COPY "

City Magistrate,
Bangalore.

A. P. F. VI. G[illegible]

SUBJECT.....

.....

.....

Section Laeee

File No. 62-28

Serial No. 2

No. 3966 Records

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

To The Superintendent, Govt Printing, and Registrar, Authorised Publications, Bangalore

Date of issue 29/1/29

Signed by M Rao

Sir,

With reference to your letter No. 18 dated 20th Novr 1928 Regarding the Complaint of Mr. R. Gopal here in the matter of the Vokkaligara Sangha Press I have the honour to state that the action of the City Magistrate in not dismissing the Complaint but forwarding it to You for such action as You may

List of enclosures.....

Copied by .....

Examined by .....

over

WD0325—GPB—30,000—26-5-27

deem fit, cannot be supported under any of the provisions of the Criminal Procedure Code, ~~according to~~ under which alone he ought to have acted in the matter. As the magistrate's reference is thus illegal and unauthorised, I am of opinion that you may return the records to him for disposal according to law.

I have etc.

D. M/

Legal Remembrancer and Secretary to Govt, Law Dept

DMP
25.1.29